

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 1004 of 1987****For Approval and Signature:****HONOURABLE MR.JUSTICE KS JHAVERI**

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MOHMED @ GULAM RASUL SHAIKH - Appellant(s)
Versus
ALIBHAI UMARBHAI MALEK & 1 - Defendant(s)

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Appearance :

MR MB GANDHI for Appellant(s) : 1,
MR SN SHELAT for Defendant(s) : 1 - 2.
MR HARDIK C RAWAL for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI**Date : 01/09/2006****ORAL JUDGMENT**

1.0 By way of this appeal, the appellant has challenged the judgment and award of the Motor Accident Claims Tribunal(No.IV)Auxiliary, Ahmedabad dated 10.10.1986 whereby the Tribunal partly allowed the said petition.

2.0 The brief facts of the case are that on 12.04.1984, when the present appellant was proceeding on cycle, he was dashed by a bus

driving by present opponent No.1 and owned by present opponent No.2. On account of the said accident, the appellant received serious bodily injuries, and hence, he filed a petition claiming an amount of Rs.62,250/- by way of compensation.

2.1 In the said petition, after hearing the parties, the Tribunal passed the judgment and award which is under challenge in this appeal.

3.0 Heard, learned Counsel for the parties. It was the case of the appellant before the Tribunal that on the day of incident when he was proceeding on a cycle, he was dashed by a bus being driven in a rash and negligent manner by opponent No.1. The story put forward by the appellant is supported by police complaint (Exh.56), judgment of the Metropolitan Magistrate in Criminal Case No.1588 of 1984(Exh.54) filed in connection with the said accident and 'Panchnama'(Exh.39) of the scene of offence which clearly leads to the conclusion that the

appellant received injuries on account of the rash and negligence driving on the part of opponent No.1. It may be noted that opponents have not denied the factum of accident. The Tribunal was, therefore, justified in coming to the conclusion that, since the appellant has received injuries on account of the sole negligence on the part of opponent No.1, he is entitled for compensation.

3.1 While considering the aspect of compensation, the Tribunal has taken into consideration the medical and other evidence available on record. Looking to age of the appellant, the nature of injuries sustained by him and considering the fact that he was earning Rs.500/- per month, the compensation awarded by the Tribunal, in my opinion, is just and reasonable. No case has been made out by the appellant for enhancement of the amount of compensation. I am, therefore, in complete agreement with the reasonings given and the

findings arrived at by the Tribunal and, hence, do not find any reason to interfere in this appeal.

4.0 In the result, the appeal is dismissed.

No order as to costs.

(K. S. Jhaveri, J.)

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